



Federal Communications Commission
Washington, D.C. 20554

May 24, 2019

Ramar Communications, Inc.
P.O. BOX 3757
Lubbock, TX 79452

Re: Request for Tolling Waiver
KLCW-TV, Wolfforth, TX
Facility ID No. 77719
LMS File No. 0000073055

Dear Licensee,

On May 21, 2019, Ramar Communications, Inc. (RCI), the licensee of KLCW-TV, Wolfforth, Texas (KLCW or Station), filed the above-referenced request for waiver of the Commission's tolling provisions and tolling of the Station's construction permit expiration date. For the reasons below, we grant RCI's request and toll the expiration date of KLCW's construction permit for through July 29, 2019.¹

Background. Pursuant to Section 73.3700(b)(5) of the Commission's rules (Rules), a station that was assigned a new channel as a result of the Commission's incentive auction and repacking process may request a single extension of its construction permit deadline of up to 180 days to complete construction of its post-auction facility.² All subsequent requests for additional time to construct are subject to the Commission's tolling provisions of Section 73.3598(b) of the Rules.³ The Commission's tolling provisions provide that a construction permit deadline may be tolled under specific circumstances such as acts of God, delays due to administrative or judicial review, or construction that is delayed by any cause of action pending before a court of competent jurisdiction relating to any necessary local, state, or federal requirement for the construction or operation of the station, including any zoning or environmental requirement.⁴ If a station does not qualify for tolling under these criteria, good cause may exist to waive the Commission's tolling provisions and tolling may still be warranted where the licensee can demonstrate that "rare and exceptional circumstances" prevented construction by the station's construction permit expiration date.⁵

¹ Because 60 days from the Station's current construction expiration date falls on Sunday, July 28, 2019, we will extend the construction permit to the next business day, which would be Monday, July 29, 2019. *See* 47 CFR 1.4.

² *See* 47 CFR § 73.3700(b)(5).

³ *See* 47 CFR § 73.3700(b)(5)(i) citing 47 CFR § 73.3598(b).

⁴ *Id.*

⁵ *See* 1998 Biennial Regulatory Review -- Streamlining of Mass Media Applications, Rules, and Processes, Memorandum Opinion and Order, 14 FCC Rcd 17525, 17542, para. 42 (1999) (recognizing that there may be "rare and exceptional circumstances" beyond the control of the licensee that do not fall under the tolling provisions, but "which would warrant the tolling of construction time." The Commission concluded that in such "limited circumstances," it would entertain requests for waiver of its "strict tolling provisions"); *Northeast Cellular Telephone Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990) and *WAIT Radio v. FCC*, 418 F.2d 1153, 1159 (D.C. Cir. 1969), *cert. denied*, 409 U.S. 1072 (1972); 47 CFR § 1.3 (waiver for good cause shown).

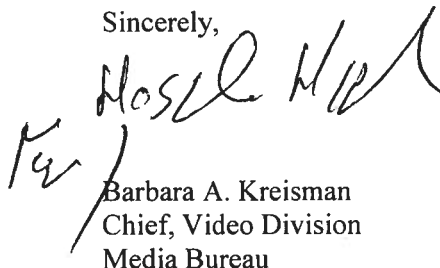
RCI requests that the tolling rule be waived for “rare and exceptional” circumstances and its construction permit expiration be tolled for 60 days. KLCW is currently operating on its post-auction channel with temporary facilities.⁶ RCI states that while it has overcome several hurdles that resulted in unanticipated delays, including poor weather conditions that prevented construction work from occurring and vandalism (damage and theft) of its tower crew’s equipment, it is now in the final stages of its construction. RCI is awaiting delivery of custom cut transmission line sections and fabricated elbow complexes from its transmission line manufacturer. These components could only be ordered in April 2019 after installation of transmission line and a new antenna was complete. As a result of the facts above

Discussion. Upon review of the facts and circumstances presented, we find that rare and exceptional circumstances exist to waive Section 73.3598(b) of the Rules and to toll the expiration date of the Station’s construction permit until July 29, 2019. Specifically, construction delays caused by weather, vandalism, and necessary delays in ordering transmission line components have caused the Station to be unable to complete construction by its construction permit deadline. We also find that grant of RCI’s waiver and tolling request is not likely to negatively impact the overall transition schedule and will not cause interference to other stations. KLCW has already ceased operation on its pre-auction channel and initiated temporary operations on its post-auction channel. Ultimately, we conclude that the public interest will be served by grant of waiver and tolling of the Station’s construction permit.

We remind RCI that pursuant to the Spectrum Act, the Station is eligible for reimbursement from the TV Broadcast Relocation Fund (Fund) of costs “reasonably incurred . . . in order for the licensee to relocate its television service from one channel to the other.” Additional expenses incurred, such as expenses resulting from changes in a Station’s transition plan that are not related to the post-incentive auction channel change, may not be reimbursable from the Fund.

The above facts considered, Ramar Communications, Inc.’s request for waiver of the Commission’s tolling provisions **IS GRANTED**. The construction permit for KLCW-TV, Wolfforth, Texas **IS TOLLED to July 29, 2019**. Grant of this tolling waiver does not permit KLCW to recommence operation on its pre-auction channel. We also remind RCI that any subsequent requests for tolling of its construction permit deadline will be subject to the Commission’s tolling provisions.⁷

Sincerely,


Barbara A. Kreisman
Chief, Video Division
Media Bureau

cc (via electronic mail): Dennis Kelly, Esq.

⁶ See LMS File No. 0000063780.

⁷ See 47 § CFR 73.3598(b).